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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/633,036	08/04/2003	Katsuhito Yoshio	03500.017480.	4700

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FITZPATRICK CELLA HARPER & SCINTO  
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NEW YORK, NY 10112

EXAMINER

SAJOUS, WESNER

ART UNIT PAPER NUMBER

2628

SHORTENED STATUTORY PERIOD OF RESPONSE	MAIL DATE	DELIVERY MODE
3 MONTHS	12/28/2006	PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

<b>Office Action Summary</b>	<b>Application No.</b> 10/633,036	<b>Applicant(s)</b> YOSHIO ET AL.	
	<b>Examiner</b> Sajous Wesner	<b>Art Unit</b> 2628	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) ☒ Responsive to communication(s) filed on 01 December 0606.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) ☒ Claim(s) 1-10 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-10 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

### **DETAILED ACTION**

This communication is responsive to the amendment, response and Request for Continued Examination (RCE) filed December 06, 2006. Claims 1-10 are presented for examination.

#### ***Continued Examination Under 37 CFR 1.114***

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 12/6/06 has been entered.

#### ***Response to Arguments***

2. The claim amendments necessitated a new ground of rejection; thus, Applicant's arguments with respect to claim 1 are rendered moot.

#### ***Claim Rejections - 35 USC § 103***

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 1, 4, 6, and 8-10 are rejected under 35 U.S.C. 103(a) as being unpatentable over Nakajima (US 6701011) in view of Yuasa et al. (US 2002 0118210).

Considering claim 1, Nakajima, at figs. 1 & 8-9, discloses an image processing method which performs a color process on an image (92, fig. 8) by using a color processing parameter determined based on a position on a map (e.g., item 91 and/or item 94 of fig. 8) representing a color space (see col. 8, lines 38-40); indicating (via cursor 95) an arbitrary position (e.g., center position or area of adjustment within item 91 of fig. 8, wherein the center position of the image and/or the area of adjustment within map 91 corresponds with the arbitrary position, see col. 7, lines 1-14) on a map representing a color space; determining the color processing parameter by moving a thumbnail image (93, fig. 8) displayed on the map (91) representing the color space to the indicated arbitrary position (e.g., center position) on the map (see col. 10, lines 14-18); wherein the color process corresponding to an arbitrary position on the map representing the color space is [inherently] reflected in the thumbnail image which has been positioned (please note that since map area 91 of fig. 8 corresponds with the adjusted area within the map and provides a center position within the map to represent image 92, with image 92 as the center image always, which is resulted from the latest adjustment (see col. 6, line 53-67), it is inherent that the color process or color adjustment performed on center of image 92 (e.g., center of item 91) is reflected in thumbnail image 93/92, as defined in col. 7, lines 4-15).

What is lacking by Nakajima is the indication of an arbitrary position on a [display] map [representing a color space].

However, the Examiner takes official notice that such practice is well known in the art as evidence of Yuasa. See Yuasa's paragraphs 79, and 85-88.

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the Nakajima reference to include the indication of an arbitrary position on a [display] map [representing a color space in the same conventional manner as taught by Yuasa, in order to allow the user operator to apply colors at a desired position on the display map.

Re claim 4, Nakajima discloses adjusting at least either brightness or contrast of the image, wherein the image processing parameter includes adjusted results of the brightness or the contrast of the image. See col. 14, lines 12-19.

Regarding claim 6, Nakajima discloses the map (see fig. 9A) represents a range (see item 103) in which color adjustment can be performed, and the position of the thumbnail image represents a state of the color adjustment. See col. 7, lines 1-14.

Regarding claim 7, although Nakajima does not specifically disclose that the map is moved to move the image; it is noted, however, that it would have been an obvious matter of design choice to modify Nakajima to move the image by moving the thumbnail 91, since applicant has not disclosed that moving the map instead of moving the image itself solves any stated problem and it appears the image processing (13 of fig. 1 in Nakajima) would perform equally well to move the image by shifting image 93 of map 91 to a different location. The purpose would be to give the system user a great deal of flexibility when performing color adjustment of the image in color space.

Claim 8 is an apparatus claim that contains features that are analogous to and necessary to perform the function of claim 1. This being the case, the limitations of claim 8 are, therefore, rejected under the same rationale set forth above for claim 1.

Claims 9 and 10 recite features that are analogous to the limitations recited in claim 1. This being the case, the limitations of claims 9-10 are, therefore, rejected under the same rationale set forth above for claim 1.

5. Claims 2-3, and 5 are rejected under 35 U.S.C. 103(a) as being unpatentable over Nakajima (US 6701011) in view of Yuasa et al. (US 20020118210), as applied to claim 1, and further in view of Russon (US 20040001107).

As per claim 2, Nakajima and Yuasa fail to teach that moving the image be performed by a drag of the image.

Russon discloses the movement of the image is performed by a drag of the thumbnail image (see paragraph 24).

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the Nakajima and Yuasa references to include movement of a thumbnail image by performing drag and drop operation in the manner recited in Russon (see paragraph 24), in order to relocate the image from one position to another position, as desired by the user.

As per claims 3 and 5, Nakajima discloses the image processing parameter is finely adjusted by indicating a symbol (e.g., box 95, fig. 8) that includes a button or a thumbnail image (*wherein the button or thumbnail image corresponds to each of the 8*

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*images surrounding the center image and/or each of the points of cursor 95 that corresponds with the thumbnail image. See col. 7, lines 6-15, and line 42 of col. 7 to line 26 of col. 8).*

**Conclusion**

7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Sajous Wesner whose telephone number is 571-272-7791. The examiner can normally be reached on Mondays thru Fridays between 11:00 AM and 7:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Kee Tung can be reached on 571-272-7794. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Wesner Sajous

Primary Examiner

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WS

12/22/06